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8 Attorneys for Plaintiff
9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 BRYAN SHAW,

16 Defendant.
17

No. CR _____

PLEA AGREEMENT FOR DEFENDANT
BRYAN SHAW

18 1. This constitutes the plea agreement between BRYAN SHAW
19 ("defendant") and the United States Attorney's Office for the
20 Central District of California (the "USAO") in the investigation of
21 defendant's insider trading scheme. This agreement is limited to
22 the USAO and cannot bind any other federal, state, local, or foreign
23 prosecuting, enforcement, administrative, or regulatory authorities.

24 DEFENDANT'S OBLIGATIONS

25 2. Defendant agrees to:

26 a) Give up the right to indictment by a grand jury and,
27 at the earliest opportunity requested by the USAO and provided by
28 the Court, appear and plead guilty to a one-count information in the

1 form attached to this agreement or a substantially similar form,
2 which charges defendant with conspiracy to commit securities fraud
3 through insider trading, in violation of 18 U.S.C. § 371 (the
4 "Information").

5 b) Not contest facts agreed to in this agreement.

6 c) Abide by all agreements regarding sentencing
7 contained in this agreement.

8 d) Appear for all court appearances, surrender as
9 ordered for service of sentence, obey all conditions of any bond,
10 and obey any other ongoing court order in this matter.

11 e) Not commit any crime; however, offenses that would be
12 excluded for sentencing purposes under United States Sentencing
13 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are
14 not within the scope of this agreement.

15 f) Be truthful at all times with Pretrial Services, the
16 United States Probation Office, and the Court.

17 g) Pay disgorgement of at least \$1,271,787 (an amount
18 that is intended to be equal to the amount of defendant's proceeds
19 from the insider trading conspiracy charged in the information) at
20 or before the time of sentencing.

21 h) Pay the applicable special assessment at or before
22 the time of sentencing unless defendant lacks the ability to pay and
23 prior to sentencing submits a completed financial statement on a
24 form to be provided by the USAO.

25 3. Defendant further agrees to cooperate fully with the USAO,
26 the Federal Bureau of Investigation, and, as directed by the USAO,
27 any other federal, state, local, or foreign prosecuting,
28

1 enforcement, administrative, or regulatory authority. This
2 cooperation requires defendant to:

3 a) Respond truthfully and completely to all questions
4 that may be put to defendant, whether in interviews, before a grand
5 jury, or at any trial or other court proceeding.

6 b) Attend all meetings, grand jury sessions, trials or
7 other proceedings at which defendant's presence is requested by the
8 USAO or compelled by subpoena or court order.

9 c) Produce voluntarily all documents, records, or other
10 tangible evidence relating to matters about which the USAO, or its
11 designee, inquires.

12 4. For purposes of this agreement: (1) "Cooperation
13 Information" shall mean any statements made, or documents, records,
14 tangible evidence, or other information provided, by defendant
15 pursuant to defendant's cooperation under this agreement or pursuant
16 to the letter agreement previously entered into by the parties dated
17 February 5, 2013 ("Letter Agreement"); and (2) "Plea Information"
18 shall mean any statements made by defendant, under oath, at the
19 guilty plea hearing and the agreed to factual basis statement in
20 this agreement.

21 THE USAO'S OBLIGATIONS

22 5. The USAO agrees to:

23 a) Not contest facts agreed to in this agreement.

24 b) Abide by all agreements regarding sentencing
25 contained in this agreement.

26 c) At the time of sentencing, provided that defendant
27 demonstrates an acceptance of responsibility for the offenses up to
28 and including the time of sentencing, recommend a two-level

1 reduction in the applicable Sentencing Guidelines offense level,
2 pursuant to U.S.S.G. § 3E1.1, and recommend and, if necessary, move
3 for an additional one-level reduction if available under that
4 section.

5 6. The USAO further agrees:

6 a) Not to offer as evidence in its case-in-chief in the
7 above-captioned case or any other criminal prosecution that may be
8 brought against defendant by the USAO, or in connection with any
9 sentencing proceeding in any criminal case that may be brought
10 against defendant by the USAO, any Cooperation Information.
11 Defendant agrees, however, that the USAO may use both Cooperation
12 Information and Plea Information: (1) to obtain and pursue leads to
13 other evidence, which evidence may be used for any purpose,
14 including any criminal prosecution of defendant; (2) to cross-
15 examine defendant should defendant testify, or to rebut any evidence
16 offered, or argument or representation made, by defendant,
17 defendant's counsel, or a witness called by defendant in any trial,
18 sentencing hearing, or other court proceeding; and (3) in any
19 criminal prosecution of defendant for false statement, obstruction
20 of justice, or perjury.

21 b) Not to use Cooperation Information against defendant
22 at sentencing for the purpose of determining the applicable
23 guideline range, including the appropriateness of an upward
24 departure, or the sentence to be imposed, and to recommend to the
25 Court that Cooperation Information not be used in determining the
26 applicable guideline range or the sentence to be imposed. Defendant
27 understands, however, that Cooperation Information will be disclosed
28 to the probation office and the Court, and that the Court may use

1 Cooperation Information for the purposes set forth in U.S.S.G.
2 § 1B1.8(b) and for determining the sentence to be imposed.

3 c) In connection with defendant's sentencing, to bring
4 to the Court's attention the nature and extent of defendant's
5 cooperation.

6 d) If the USAO determines, in its exclusive judgment,
7 that defendant has both complied with defendant's obligations under
8 paragraphs 2 and 3 above and provided substantial assistance to law
9 enforcement in the prosecution or investigation of another
10 ("substantial assistance"), to move the Court pursuant to U.S.S.G.
11 § 5K1.1 to fix an offense level and corresponding guideline range
12 below that otherwise dictated by the sentencing guidelines, and to
13 recommend a term of imprisonment within this reduced range.

14 DEFENDANT'S UNDERSTANDINGS REGARDING COOPERATION

15 7. Defendant understands the following:

16 a) Any knowingly false or misleading statement by
17 defendant will subject defendant to prosecution for false statement,
18 obstruction of justice, and perjury and will constitute a breach by
19 defendant of this agreement.

20 b) Nothing in this agreement requires the USAO or any
21 other prosecuting, enforcement, administrative, or regulatory
22 authority to accept any cooperation or assistance that defendant may
23 offer, or to use it in any particular way.

24 c) Defendant cannot withdraw defendant's guilty plea if
25 the USAO does not make a motion pursuant to U.S.S.G. § 5K1.1 for a
26 reduced guideline range or if the USAO makes such a motion and the
27 Court does not grant it or if the Court grants such a USAO motion
28 but elects to sentence above the reduced range.

1 d) At this time the USAO makes no agreement or
2 representation as to whether any cooperation that defendant has
3 provided or intends to provide constitutes or will constitute
4 substantial assistance. The decision whether defendant has provided
5 substantial assistance will rest solely within the exclusive
6 judgment of the USAO.

7 e) The USAO's determination whether defendant has
8 provided substantial assistance will not depend in any way on
9 whether the government prevails at any trial or court hearing in
10 which defendant testifies or in which the government otherwise
11 presents information resulting from defendant's cooperation.

12 NATURE OF THE OFFENSE

13 8. Defendant understands that for defendant to be guilty of
14 the crime charged in count one of the information, that is,
15 conspiracy to commit securities fraud through insider trading, in
16 violation of Title 18, United States Code, Section 371, the
17 following must be true:

18 a) Beginning no later than in or about October 2010, and
19 continuing through at least in or about May 2012, there was an
20 agreement between two or more persons to commit the crime of
21 securities fraud through insider trading, in violation of Title 15,
22 United States Code, Sections 78j(b), and 78ff, and Title 17, Code of
23 Federal Regulations, Section 240.10b-5;

24 b) The defendant became a member of the conspiracy
25 knowing of at least one of its objects and intending to help
26 accomplish it; and

27 c) One of the members of the conspiracy performed at
28 least one overt act for the purpose of carrying out the conspiracy.

1 9. Defendant further understands that the elements of
2 securities fraud through insider trading, in violation of Title 15,
3 United States Code, Sections 78j(b), and 78ff, and Title 17, Code of
4 Federal Regulations, Section 240.10b-5, are as follows:

5 a) Beginning no later than in or about October 2010, and
6 continuing through at least May 2012, defendant engaged in an
7 insider trading scheme in connection with the purchase or sale of
8 the stock of certain publicly-traded companies, meaning that:

9 i. Another individual in the scheme possessed
10 material non-public information regarding a publicly-traded company;

11 ii. That individual disclosed this material, non-
12 public information to defendant in anticipation that it would be
13 wrongfully used in connection with the purchase or sale of
14 securities;

15 iii. Defendant used the material, non-public
16 information provided by the individual in deciding whether to
17 purchase or sell the stock of a publicly-traded company; and

18 iv. In return, the individual who passed the
19 material, non-public information anticipated some kind of benefit,
20 directly or indirectly.

21 b) When defendant engaged in the insider trading scheme,
22 defendant acted willfully, knowingly, and with the intent to defraud
23 the publicly-traded companies and their shareholders;

24 c) In furtherance of that scheme, there occurred at
25 least one use of any means or instruments of transportation or
26 communication in interstate commerce or the use of the mails or any
27 facility of any national securities exchange.

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PENALTIES AND RESTITUTION

10. Defendant understands that the statutory maximum sentence that the Court can impose for a violation of Title 18, United States Code, Section 371, is: five years imprisonment; a three-year period of supervised release; a fine of \$250,000 or twice the gross gain or gross loss resulting from the offense, whichever is greatest; and a mandatory special assessment of \$100.

11. Defendant understands that supervised release is a period of time following imprisonment during which defendant will be subject to various restrictions and requirements. Defendant understands that if defendant violates one or more of the conditions of any supervised release imposed, defendant may be returned to prison for all or part of the term of supervised release authorized by statute for the offense that resulted in the term of supervised release, which could result in defendant serving a total term of imprisonment greater than the statutory maximum stated above.

12. Defendant understands that, by pleading guilty, defendant may be giving up valuable government benefits and valuable civic rights, such as the right to vote, the right to possess a firearm, the right to hold office, and the right to serve on a jury. Defendant understands that once the court accepts defendant's guilty plea, it will be a federal felony for defendant to possess a firearm or ammunition. Defendant understands that the conviction in this case may also subject defendant to various other collateral consequences, including but not limited to revocation of probation, parole, or supervised release in another case and suspension or revocation of a professional license. Defendant understands that

1 unanticipated collateral consequences will not serve as grounds to
2 withdraw defendant's guilty plea.

3 13. Defendant understands that, if defendant is not a United
4 States citizen, the felony conviction in this case may subject
5 defendant to: removal, also known as deportation, which may, under
6 some circumstances, be mandatory; denial of citizenship; and denial
7 of admission to the United States in the future. The court cannot,
8 and defendant's attorney also may not be able to, advise defendant
9 fully regarding the immigration consequences of the felony
10 conviction in this case. Defendant understands that unexpected
11 immigration consequences will not serve as grounds to withdraw
12 defendant's guilty plea.

13 FACTUAL BASIS

14 14. Defendant admits that defendant is, in fact, guilty of the
15 offense to which defendant is agreeing to plead guilty. Defendant
16 and the USAO agree to the Factual Statement attached as Exhibit A to
17 this agreement. Defendant and the USAO agree that this statement of
18 facts is sufficient to support a plea of guilty to the charge
19 described in this agreement and to establish the Sentencing
20 Guidelines factors set forth in paragraph 16 below but is not meant
21 to be a complete recitation of all facts relevant to the underlying
22 criminal conduct or all facts known to either party that relate to
23 that conduct.

24 SENTENCING FACTORS

25 15. Defendant understands that in determining defendant's
26 sentence the Court is required to calculate the applicable
27 Sentencing Guidelines range and to consider that range, possible
28 departures under the Sentencing Guidelines, and the other sentencing

1 factors set forth in 18 U.S.C. § 3553(a). Defendant understands
2 that the Sentencing Guidelines are advisory only, that defendant
3 cannot have any expectation of receiving a sentence within the
4 calculated Sentencing Guidelines range, and that after considering
5 the Sentencing Guidelines and the other § 3553(a) factors, the Court
6 will be free to exercise its discretion to impose any sentence it
7 finds appropriate up to the maximum set by statute for the crimes of
8 conviction.

9 16. Defendant and the USAO agree to the following applicable
10 Sentencing Guidelines factors:

11 Base Offense Level : 8 [U.S.S.G. § 2B1.4]

12 Gain from Offense
13 Between \$1 million and : +16 [U.S.S.G. § 2B1.1(b)(1)(I)]
\$2.5 million

14 The USAO will agree to a two-level downward adjustment for
15 acceptance of responsibility (and, if applicable, move for an
16 additional one-level downward adjustment under U.S.S.G. § 3E1.1(b))
17 only if the conditions set forth in paragraph 2 are met. Defendant
18 and the USAO reserve the right to argue that additional specific
19 offense characteristics, adjustments, and departures under the
20 Sentencing Guidelines are appropriate.

21 17. Defendant understands that there is no agreement as to
22 defendant's criminal history or criminal history category.

23 18. Defendant and the USAO reserve the right to argue for a
24 sentence outside the sentencing range established by the Sentencing
25 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),
26 (a)(2), (a)(3), (a)(6), and (a)(7).
27
28

1 WAIVER OF CONSTITUTIONAL RIGHTS

2 19. Defendant understands that by pleading guilty, defendant
3 gives up the following rights:

4 a) The right to persist in a plea of not guilty.

5 b) The right to a speedy and public trial by jury.

6 c) The right to be represented by counsel - and if
7 necessary have the court appoint counsel - at trial. Defendant
8 understands, however, that, defendant retains the right to be
9 represented by counsel - and if necessary have the court appoint
10 counsel - at every other stage of the proceeding.

11 d) The right to be presumed innocent and to have the
12 burden of proof placed on the government to prove defendant guilty
13 beyond a reasonable doubt.

14 e) The right to confront and cross-examine witnesses
15 against defendant.

16 f) The right to testify and to present evidence in
17 opposition to the charges, including the right to compel the
18 attendance of witnesses to testify.

19 g) The right not to be compelled to testify, and, if
20 defendant chose not to testify or present evidence, to have that
21 choice not be used against defendant.

22 h) Any and all rights to pursue any affirmative
23 defenses, Fourth Amendment or Fifth Amendment claims, and other
24 pretrial motions that have been filed or could be filed.

25 WAIVER OF APPEAL OF CONVICTION

26 20. Defendant understands that, with the exception of an
27 appeal based on a claim that defendant's guilty plea were
28 involuntary, by pleading guilty defendant is waiving and giving up

1 any right to appeal defendant's conviction on the offense to which
2 defendant is pleading guilty.

3 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE AND COLLATERAL ATTACK

4 21. Defendant agrees that, provided the Court imposes a term
5 of imprisonment within or below the range corresponding to an
6 offense level of 21 and the criminal history category calculated by
7 the Court, defendant gives up the right to appeal all of the
8 following: (a) the procedures and calculations used to determine and
9 impose any portion of the sentence; (b) the term of imprisonment
10 imposed by the Court; (c) the fine imposed by the court, provided it
11 is within the statutory maximum; (d) the term of probation or
12 supervised release imposed by the Court, provided it is within the
13 statutory maximum; and (e) any of the following conditions of
14 probation or supervised release imposed by the Court: the conditions
15 set forth in General Orders 318, 01-05, and/or 05-02 of this Court;
16 the drug testing conditions mandated by 18 U.S.C. §§ 3563(a)(5) and
17 3583(d); and the alcohol and drug use conditions authorized by 18
18 U.S.C. § 3563(b)(7).

19 22. Defendant also gives up any right to bring a post-
20 conviction collateral attack on the conviction or sentence,
21 including any order of restitution, except a post-conviction
22 collateral attack based on a claim of ineffective assistance of
23 counsel, a claim of newly discovered evidence, or an explicitly
24 retroactive change in the applicable Sentencing Guidelines,
25 sentencing statutes, or statutes of conviction.

26 23. The USAO agrees that, provided (a) all portions of the
27 sentence are at or below the statutory maximum specified above and
28 (b) the Court imposes a term of imprisonment within or above the

1 range corresponding to an offense level of 21 and the criminal
2 history category calculated by the Court, the USAO gives up its
3 right to appeal any portion of the sentence.

4 RESULT OF WITHDRAWAL OF GUILTY PLEA

5 24. Defendant agrees that if, after entering a guilty plea
6 pursuant to this agreement, defendant seeks to withdraw and succeeds
7 in withdrawing defendant's guilty plea on any basis other than a
8 claim and finding that entry into this plea agreement was
9 involuntary, then (a) the USAO will be relieved of all of its
10 obligations under this agreement; and (b) should the USAO choose to
11 pursue any charge that was not filed as a result of this agreement,
12 then (i) any applicable statute of limitations will be tolled
13 between the date of defendant's signing of this agreement and the
14 filing commencing any such action; and (ii) defendant waives and
15 gives up all defenses based on the statute of limitations, any claim
16 of pre-indictment delay, or any speedy trial claim with respect to
17 any such action, except to the extent that such defenses existed as
18 of the date of defendant's signing this agreement.

19 RESULT OF VACATUR, REVERSAL OR SET-ASIDE

20 25. Defendant agrees that if the count of conviction is
21 vacated, reversed, or set aside, both the USAO and defendant will be
22 released from all their obligations under this agreement.

23 EFFECTIVE DATE OF AGREEMENT

24 26. This agreement is effective upon signature and execution
25 of all required certifications by defendant, defendant's counsel,
26 and an Assistant United States Attorney.

BREACH OF AGREEMENT

27. Defendant agrees that if defendant, at any time after the signature of this agreement and execution of all required certifications by defendant, defendant's counsel, and an Assistant United States Attorney, knowingly violates or fails to perform any of defendant's obligations under this agreement ("a breach"), the USAO may declare this agreement breached. All of defendant's obligations are material, a single breach of this agreement is sufficient for the USAO to declare a breach, and defendant shall not be deemed to have cured a breach without the express agreement of the USAO in writing. If the USAO declares this agreement breached, and the Court finds such a breach to have occurred, then: (a) if defendant has previously entered a guilty plea pursuant to this agreement, defendant will not be able to withdraw the guilty plea, and (b) the USAO will be relieved of all its obligations under this agreement.

28. Following the Court's finding of a knowing breach of this agreement by defendant, should the USAO choose to pursue any charge that was either dismissed or not filed as a result of this agreement, then:

a) Defendant agrees that any applicable statute of limitations is tolled between the date of defendant's signing of this agreement and the filing commencing any such action.

b) Defendant waives and gives up all defenses based on the statute of limitations, any claim of pre-indictment delay, or any speedy trial claim with respect to any such action, except to the extent that such defenses existed as of the date of defendant's signing this agreement.

1 c) Defendant agrees that: (i) any statements made by
2 defendant, under oath, at the guilty plea hearing (if such a hearing
3 occurred prior to the breach); (ii) the agreed to factual basis
4 statement in this agreement; and (iii) any evidence derived from
5 such statements, shall be admissible against defendant in any such
6 action against defendant, and defendant waives and gives up any
7 claim under the United States Constitution, any statute, Rule 410 of
8 the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of
9 Criminal Procedure, or any other federal rule, that the statements
10 or any evidence derived from the statements should be suppressed or
11 are inadmissible.

12 COURT AND PROBATION OFFICE NOT PARTIES

13 29. Defendant understands that the Court and the United States
14 Probation Office are not parties to this agreement and need not
15 accept any of the USAO's sentencing recommendations or the parties'
16 agreements to facts or sentencing factors.

17 30. Defendant understands that both defendant and the USAO are
18 free to: (a) supplement the facts by supplying relevant information
19 to the United States Probation Office and the Court, (b) correct any
20 and all factual misstatements relating to the Court's Sentencing
21 Guidelines calculations and determination of sentence, and (c) argue
22 on appeal and collateral review that the Court's Sentencing
23 Guidelines calculations and the sentence it chooses to impose are
24 not error, although each party agrees to maintain its view that the
25 calculations in paragraph 16 are consistent with the facts of this
26 case. While this paragraph permits both the USAO and defendant to
27 submit full and complete factual information to the United States
28 Probation Office and the Court, even if that factual information may

1 be viewed as inconsistent with the facts agreed to in this
2 agreement, this paragraph does not affect defendant's and the USAO's
3 obligations not to contest the facts agreed to in this agreement.

4 31. Defendant understands that even if the Court ignores any
5 sentencing recommendation, finds facts or reaches conclusions
6 different from those agreed to, and/or imposes any sentence up to
7 the maximum established by statute, defendant cannot, for that
8 reason, withdraw defendant's guilty plea, and defendant will remain
9 bound to fulfill all defendant's obligations under this agreement.
10 Defendant understands that no one -- not the prosecutor, defendant's
11 attorney, or the Court -- can make a binding prediction or promise
12 regarding the sentence defendant will receive, except that it will
13 be within the statutory maximum.

14 NO ADDITIONAL AGREEMENTS

15 32. Defendant understands that, except as set forth herein,
16 there are no promises, understandings, or agreements between the
17 USAO and defendant or defendant's attorney, and that no additional
18 promise, understanding, or agreement may be entered into unless in a
19 writing signed by all parties or on the record in court.

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PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

33. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED


UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF CALIFORNIA

ANDRÉ BIROTTE JR.
United States Attorney


JAMES A. BOWMAN
Assistant United States Attorney


Date

5/2/2013


BRYAN SHAW
Defendant

Date

4-30-2013


NATHAN HOCHMAN
Attorney for Defendant
BRYAN SHAW

Date

5-1-2013

CERTIFICATION OF DEFENDANT


I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.

Bryan Shaw
BRYAN SHAW
Defendant

4-30-2013
Date

1 CERTIFICATION OF DEFENDANT'S ATTORNEY

2 I am BRYAN SHAW's attorney. I have carefully and thoroughly
3 discussed every part of this agreement with my client. Further, I
4 have fully advised my client of his rights, of possible pretrial
5 motions that might be filed, of possible defenses that might be
6 asserted either prior to or at trial, of the sentencing factors set
7 forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines
8 provisions, and of the consequences of entering into this agreement.
9 To my knowledge: no promises, inducements, or representations of any
10 kind have been made to my client other than those contained in this
11 agreement; no one has threatened or forced my client in any way to
12 enter into this agreement; my client's decision to enter into this
13 agreement is an informed and voluntary one; and the factual basis
14 set forth in this agreement is sufficient to support my client's
15 entry of a guilty plea pursuant to this agreement.

16 
17 _____
18 NATHAN HOCHMAN
19 Attorney for Defendant
20 BRYAN SHAW
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27
28

5-1-2013

Date

1 **EXHIBIT A TO PLEA AGREEMENT - FACTUAL STATEMENT OF BRYAN SHAW**

2 **A. Overview**

3 1. Between approximately October 2010, and continuing until
4 approximately May 2012, defendant BRYAN SHAW ("defendant") knowingly
5 and willfully engaged a conspiracy with his Scott London ("London")
6 to commit securities fraud through insider trading. During the time
7 period of the conspiracy, defendant was close friends with London,
8 who was a senior partner at the accounting firm, KPMG, LLP.

9 2. KPMG was an international accounting firm that, among
10 other things, had an audit department that reviewed and verified the
11 financial statements of publicly-traded corporate clients. Because
12 corporate clients disclosed financial information to KPMG in the
13 course of such audits that had not yet been disclosed to the public,
14 KPMG required that its employees maintain the confidentiality of
15 information that they received through their employment at the firm.
16 KPMG also required that its employees not make securities trades
17 based on confidential information obtained from its clients, not use
18 that information for their own personal benefit, or disclose that
19 information to any third party.

20 3. London was the partner in charge of the KPMG's audit
21 practice for the Pacific Southwest region, including Southern
22 California, Nevada, and Arizona. London was also the partner with
23 primary responsibility at KPMG for handling the audits of certain
24 large corporate clients, including, among others, Herbalife, Ltd
25 ("Herbalife") and Skechers USA, Inc. ("Skechers"). London also
26 supervised accounting partners at KPMG who handled the audits for
27 other large corporate clients, including, among others, Deckers
28 Outdoor Corporation ("Deckers"), Pacific Capital Bancorp ("Pacific
Capital"), and RSC Holdings, Inc. ("RSC Holdings"). Through his

1 position at KPMG, London regularly received confidential information
2 regarding the firm's corporate clients, including confidential
3 information regarding Herbalife, Skechers, Deckers, Pacific Capital,
4 and RSC Holdings. Defendant knew that London was required by KPMG
5 not to disclose confidential information about the firm's clients.

6 **B. The KPMG Clients**

7 4. Herbalife was a global nutrition company, with
8 headquarters in Los Angeles, California, within the Central District
9 of California. The common stock of Herbalife was registered with
10 the United States Securities and Exchange Commission ("SEC") under
11 Section 12(b) of the Securities Exchange Act of 1934 ("the '34
12 Act"), 15 U.S.C. § 781. The common stock of Herbalife was listed on
13 the New York Stock Exchange under the ticker symbol "HLF."

14 5. Skechers was a company that designed, manufactured, and
15 marketed footwear, with headquarters in Manhattan Beach, California,
16 within the Central District of California. The common stock of
17 Skechers was registered with the SEC under the '34 Act, and was
18 listed on the New York Stock Exchange under the ticker symbol "SKX."

19 6. Deckers was a company that designed, manufactured, and
20 marketed footwear and outdoor accessories, with headquarters in
21 Goleta, California, within the Central District of California. The
22 common stock of Deckers was registered with the SEC under the '34
23 Act, and was listed on the Nasdaq National Market under the ticker
24 symbol "DECK."

25 7. Pacific Capital was a bank holding company that operated
26 Santa Barbara Bank and Trust, N.A., with headquarters in Santa
27 Barbara, California, within the Central District of California. The
28 common stock of Pacific Capital was registered with the SEC under
the '34 Act, and was listed on the Nasdaq National Market under the

1 ticker symbol "PCBC." On or about March 12, 2012, Pacific Capital
2 announced that it was being acquired by UnionBanCal Corporation and
3 its primary subsidiary Union Bank, N.A. (collectively referred to
4 herein as "Union Bank").

5 8. RSC Holdings was a company that leased construction and
6 industrial equipment, with headquarters in Scottsdale, Arizona. The
7 common stock of RSC Holdings was registered with the SEC under the
8 '34 Act, and was listed on the New York Stock Exchange under the
9 ticker symbol "RRR." On or about December 16, 2011, RSC Holdings
10 announced that it was being acquired by United Rentals, Inc.
11 ("United Rentals").

12 **C. The Insider Trading Conspiracy**

13 9. Defendant's insider trading conspiracy with London
14 operated as follows:

15 a. London would obtain material, non-public information
16 ("inside information") regarding certain publicly-traded KPMG
17 clients, including Herbalife, Skechers, and Deckers, including but
18 not limited to inside information regarding those companies'
19 earnings and financial outlook. London would also obtain inside
20 information regarding the planned acquisitions of other KPMG
21 clients, including Pacific Capital and RSC Holdings.

22 b. London would provide the inside information regarding
23 Herbalife, Skechers, Deckers, Pacific Capital, and RSC Holdings to
24 defendant, in violation of (1) the fiduciary and other duties of
25 trust and confidence that London owed to KPMG and its clients,
26 (2) the expectations of confidentiality of KPMG's clients, and
27 (3) KPMG's policies regarding the use and safekeeping of inside
28 information. In providing this inside information to defendant,
London knew that defendant would make securities transactions based

1 on that inside information, thereby generating substantial illegal
2 profits.

3 c. Defendant would use the inside information belonging
4 to KPMG and its clients, knowing that London had provided that
5 inside information in violation of a duty of trust and confidence,
6 to make securities transactions in Herbalife, Skechers, Deckers,
7 Pacific Capital, and RSC Holdings. As a result of his securities
8 trades based on the inside information received from London,
9 defendant generated at least \$1,270,000 in illegal profits.

10 d. After generating these illegal profits, defendant
11 would secretly make cash payments of several thousand dollars to
12 London as compensation for providing the inside information
13 regarding KPMG's clients. In all, defendant secretly paid London at
14 least \$60,000 in cash for the inside information. Defendant would
15 also give London other valuable items, including jewelry, concert
16 tickets, and a \$12,000 Rolex Daytona Cosmograph, as compensation for
the inside information.

17 **D. Selected Examples of Insider Trading by Defendant and London**

18 (1) Insider Trading Related to Herbalife's May 2, 2011
19 Earnings Announcement

20 10. In or about April 2011, London called defendant and
21 disclosed inside information to defendant regarding Herbalife's
22 earnings for the quarter ended March 31, 2011. Defendant then began
23 to buy call options of Herbalife stock in his brokerage account at
24 Fidelity ("the Shaw Fidelity Account") based on the inside
25 information about Herbalife's earnings that he received from London.
26 After receiving this information, defendant continued to heavily
27 purchase shares of Herbalife stock in the Shaw Fidelity Account
28 based on the inside information about Herbalife's earnings that he
received from London.

11. On May 2, 2011, Herbalife announced record earnings for the quarter ended March 31, 2011. After that announcement, between approximately May 3, 2011, and May 24, 2011, defendant sold the shares of Herbalife and call options of Herbalife stock that he had bought earlier based on inside information he had received from London, generating illegal profits of at least \$305,000.

(2) Insider Trading Related to United Rentals' December 16, 2011 Acquisition of RSC Holdings

12. On or about December 12, 2011, London called defendant and disclosed inside information to defendant regarding the fact that United Rentals may acquire RSC Holdings. Later that day, defendant deposited approximately \$30,000 of additional funds into the Shaw Fidelity Account. On or about December 14, 2011, London called defendant and disclosed additional inside information regarding United Rentals' potential acquisition of RSC Holdings. Later that day, defendant transferred an additional \$130,000 into the Shaw Fidelity Account. He also began to buy shares of RSC Holdings stock in the Shaw Fidelity Account based on the inside information that he had received from London regarding the potential acquisition of RSC Holdings.

13. On December 16, 2011, RSC Holdings and United Rentals jointly announced that United Rentals was acquiring RSC Holdings. After that announcement, between approximately December 19, 2011, and December 21, 2011, defendant sold the shares of RSC Holdings that he had purchased earlier in December 2011 based on the inside information that he had received from London, generating illegal profits of at least \$190,000.

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1 (3) Insider Trading Related to Union Bank's March 12, 2012
2 Acquisition of Pacific Capital

3 14. On or about February 3, 2012, London called defendant and
4 disclosed inside information to defendant regarding the fact that
5 Union Bank may acquire Pacific Capital. Later that day, defendant
6 began to buy shares of Pacific Capital in the Shaw Fidelity Account
7 based on the inside information that he had received from London
8 regarding Union Bank's upcoming acquisition of Pacific Capital.
9 Between February 3, 2012, and on or about March 11, 2012, defendant
10 continued to buy shares of Pacific Capital and call options of
11 Pacific Capital stock in the Shaw Fidelity Account based on the
12 inside information that he had received from London regarding Union
Bank's upcoming acquisition of Pacific Capital.

13 15. On or about March 12, 2012, Union Bank had announced that
14 it was acquiring Pacific Capital. After that announcement, between
15 approximately March 12, 2012, and April 24, 2012, defendant sold the
16 shares of Pacific Capital and call options of Pacific Capital stock
17 that he had purchased earlier in February 2012 and March 2012 based
18 on the inside information that he had received from London,
19 generating illegal profits of at least \$365,000.

20 (4) Insider Trading Related to Deckers' April 26, 2012
21 Earnings Announcement

22 16. On or about April 18, 2012, London called defendant and
23 disclosed inside information to defendant regarding Deckers'
24 earnings for the quarter ended March 31, 2012. Later that day,
25 defendant began to purchase put options of Deckers stock in the Shaw
26 Fidelity Account based on the inside information about Deckers'
27 earnings that he received from London. On or about April 25, 2012,
28 London called defendant and disclosed additional inside information
to defendant regarding Deckers' earnings for the quarter ended March

1 31, 2012. Between April 18, 2012, and April 26, 2012, defendant
2 purchased put options of Deckers stock in the Shaw Fidelity Account
3 based on the inside information about Deckers' earnings that he
4 received from London.

5 17. On April 26, 2012, Deckers announced disappointing
6 financial results for the quarter ended March 31, 2012. After that
7 announcement, between April 27, 2012, and May 1, 2012, defendant
8 sold the put options of Deckers stock that he had purchased earlier
9 in April 2012 based on the inside information that he had received
10 from London, generating illegal profits of at least \$161,000.